

A G Contract No KR00 0877TRN
ADOT ECS File: JPA 00-83
Project: HF037 01C
Section: Willow Creek Rd. Ph. III, Mitchell - Montana
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF PRESCOTT, ARIZONA

THIS AGREEMENT is entered into 17 August, 2000, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY of PRESCOTT acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$596,373.00 in Highway User Revenue Funds (HURF) to the City for construction of improvements to Willow Creek Road in the City, and such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of \$662,637.00.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO 24176
Filed with the Secretary of State
Date Filed: 08/17/00
Ritzey Boyles
Secretary of State
3 Dick V. Gruenewald

II. SCOPE OF WORK

1. The City will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project cost at the start of construction.

d. Invoice the State for thirty percent of the project cost at the thirty percent and sixty percent project completion stages.

e. After project completion, invoice the State for ten percent of the project cost.

f. Upon completion, approve and accept the project as complete and provide maintenance.

1. The State will:

a. Within 30 days after receipt and approval of an invoice, advance the City HURF funds in the amount of \$596,373.00 in accordance with paragraph II.1.c., d. and e. above.

b. Withhold from NACOG federal funds and the obligation authority of federal funds in the amount of \$662,637.00.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the commencement of performance under this agreement, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

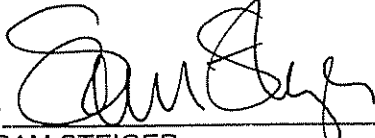
Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

City of Prescott
City Manager
PO Box 2059
Prescott, AZ 86302

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF PRESCOTT, ARIZONA


By 
SAM STEIGER
Mayor

STATE OF ARIZONA

Department of Transportation

By 
MARY LYNN FISCHER, Director
Transportation Planning

ATTEST

By 
MARIE WATSON
City Clerk

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RESOLUTION

BE IT RESOLVED on this 24th day of May 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Prescott for the purpose of defining responsibilities for the exchange of HURF funds for improvements to Willow Creek road Phase III.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Director of Transportation Planning for approval and execution.

A handwritten signature in black ink, appearing to read 'D. Allocco', written over a horizontal line.

DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group
for Mary E. Peters, Director

RESOLUTION NO. 3273

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE EXCHANGE OF HURF FUNDS FOR THE CONSTRUCTION OF CERTAIN IMPROVEMENTS ON WILLOW CREEK ROAD, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

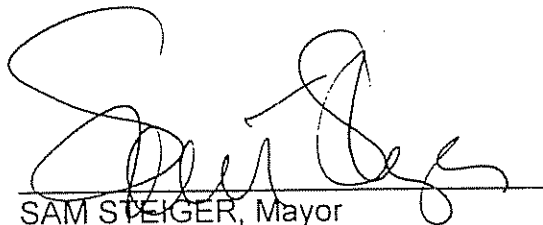
WHEREAS, the City is entitled to the exchange of HURF funds for the construction of certain improvements on Willow Creek Road.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

SECTION 1. THAT, the City of Prescott hereby approves the attached Intergovernmental Agreement with the Arizona Department of Transportation for the exchange of HURF funds, attached hereto as Exhibit "A".

SECTION 2. THAT, the Mayor and Staff are hereby authorized to execute the attached Intergovernmental Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 25th day of JULY, 2000.


SAM STEIGER, Mayor

ATTEST:


MARIE L. WATSON, City Clerk

APPROVED AS TO FORM:


JOHN R. MOFFITT, City Attorney

APPROVAL OF THE PRESCOTT CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF PRESCOTT and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 26th day of JULY, 2000.



City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

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FACSIMILE: (602) 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR00-0877TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED: August 7, 2000

JANET NAPOLITANO
Attorney General

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:ggt

Enc.

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